

# Commercial and Federal Litigation Section Newsletter

A publication of the Commercial and Federal Litigation Section of the New York State Bar Association

## A Message from the Chair

2009/2010 is truly on its way to being one of the best years in the 21-year history of the Commercial and Federal Litigation Section. We now have almost 2,600 members in diverse practices that range from solo practitioners to partners and associates at mega-firms and who are actively involved in all aspects of commercial litigation in the state and federal courts.



Vincent J. Syracuse

Our Section’s 2010 Annual Meeting at the Hilton Hotel on January 27th drew “standing room only” attendance. Section Vice-Chair David H. Tennant organized the day and helped continue our proud tradition of outstanding CLE programs. Former Chief Judge Judith S. Kaye moderated the first program, called “Behind The Veil: A Frank Discussion About Our Appellate Courts,” in which she “interviewed” Chief Judge Jonathan Lippman and U.S. Circuit Judge Richard Wesley about the workings of our appellate courts. The conversation was far-ranging and touched on subjects of interest to the entire bench and bar. The second program put us all on a different tack. Responding to the needs of lawyers in challenging economic times, we offered a program entitled “The Future Ain’t What It Used to Be: Finding Opportunity in a Changing Economy,” which was led by Prof. Gary Munneke of Pace Law School and tackled a tough question: How can lawyers not just survive but thrive in a changing economy? The panel consisted of Harry P. Trueheart, Chairman, Nixon Peabody LLP; Teresa Wynn Roseborough, Senior Litigation Counsel, MetLife; Michael Rakower, Law Office of Michael C. Rakower, P.C.; and Jim Hasset, LegalBizDev.

Of course, the highlight of the day was our Section’s annual luncheon. We were honored by the presence of over 60 justices and judges from all levels of the New York State and federal courts, NYSBA President Michael Getnick, NYSBA President-Elect and former Section Chair Steve Younger, several former NYSBA presidents, including Mark Alcott and Bernice Leber, and many former Section Chairs who gathered with us to express their support of the Section and its many activities.

It was a privilege for the Section to be able to present the Stanley H. Fuld Award for Outstanding Contributions to Commercial Law and Litigation for 2010 to Chief Judge Jonathan Lippman. Former Chief Judge Kaye (who received the award in 1997) made the presentation

## Inside

The Southern District Changes Its Policy on Electronic Devices ..	3
The Section Will Feature Program on the Obama Administration and Perspectives on Growth Opportunities for Attorneys of Color in the Public and Private Sectors.....	4
Presentation of the Stanley H. Fuld Award for Outstanding Contributions to Commercial Law and Litigation.....	5
The Annual Meeting:	
The Judge Kaye Show and Much, Much More .....	6
New Rule Clarifies Rejection of Papers by State Court Clerks .....	8
(Mark Davies)	
CPLR Amendments: 2009 Legislative Session.....	9
2009–2010 Amendments to the Uniform Rules for Supreme and County Courts, Rules Governing Appeals, and Certain Other Rules of Interest to Civil Litigators.....	10
Notes of the Section’s Executive Committee Meetings .....	11
Commercial and Federal Litigation Section Spring Meeting Program .....	12

of the award to Chief Judge Lippman. The creation of the Commercial Division was the direct result of a report that was prepared by our Section. We helped create the Commercial Division after the bench and the bar identified the need for a business court in New York and have been a part of its expansion ever since. Chief Judge Lippman's initiatives, particularly his support for the development of the Commercial Division, his forward-thinking ideas, and his unique ability to build consensus at all levels of the judiciary have made and continue to make New York a premier forum for the resolution of business disputes. We are grateful for his enduring support in elevating the standards of commercial law.

Our Annual Meeting is just one example of the many unique and innovative programs sponsored by our Section. We are all looking forward to the Section's Fourth Annual Smooth Moves Program this spring. This year's program is entitled "The Obama Administration's Call to Service—One Year Later: Perspectives on Growth Opportunities for Attorneys of Color in the Public and Private Sectors." The CLE program will review the administration's judicial appointments and priorities to date and will discuss legislative initiatives and priorities that could give rise to opportunities for private practitioners to develop expertise. It will highlight public sector opportunities and the call to government service. The program is being developed by Tracee E. Davis (our Section's Vice-Chair in 2010/2011) and will be held on Wednesday, April 27, 2010, from 4:00-7:30 p.m. at Lincoln Center's Stanley Kaplan Penthouse. Following the CLE program, a gala reception will begin at 5:30 p.m., at which the Honorable George Bundy Smith Pioneer Award will be presented jointly to father and son respectively, Norman Kee and Glenn Lau-Kee. Both father and son are legal pioneers in their own right, and we believe that this uniquely generational award bestowed on these two fine lawyers exemplifies the traditions and tenets embodying the George Bundy Smith Pioneer Award—legal excellence, community involvement, and mentoring.

The winner of the Section's 2010 Minority Fellowship, which is offered to a minority law student enrolled in a law school in the State of New York, will also be announced at the reception. The winner will work during the summer of 2010 in the Chambers of the Honorable Bernard J. Fried, Justice of the Commercial Division of the Supreme Court of the State of New York, New York County.

As I have said on many occasions, our Section owes its success to the many dedicated and talented people who volunteer their precious time to our committees and activities. This year our committees have produced several reports that have drawn attention at all levels of the bench and bar:

The Committee on Immigration Litigation, chaired by Clarence Smith, Jr. and Michael D. Patrick, prepared a report on the continuing impact of immigration cases in the Second Circuit Court of Appeals. The report has been well received and was approved in January by both the NYSBA's Executive Committee and House of Delegates. Special thanks are owed to Charlotte Smith, Kamaka Martin, and Sophia Goring-Piard, who presented the report to the House of Delegates.

Bob Schragar, Howard Fischer, Steve Madra, and Megan McHugh prepared a report on the sealing of records in commercial litigation, which was adopted by our Section's Executive Committee in December and approved by the NYSBA's Executive Committee in January.

Victor Metsch, Lisa Capolla, Paula Estrada de Martin, Brem Moldovsky, and Daniel Wiig of our Section's Commercial Division Committee are responsible for the creation of a very valuable research tool for judges and lawyers. Their report reviews all of the individual rules of all of the Commercial Division judges from across the state. The report was distributed at the Annual Meeting and is now posted on our Web page.

In October 2009, the Committee on the Commercial Division, chaired by Paul D. Sarkozi and Mitch Katz, in conjunction with the Nassau County Bar Association, sponsored our second Bench-Bar Forum with Commercial Division justices from Nassau and Suffolk counties.

Joel Sternman and Bill Regan from the Katten Muchin firm prepared an amicus brief on behalf of the NYSBA in support of a motion in the Appellate Division, Second Department, for leave to appeal to the New York Court of Appeals on an important *in pari delecto* issue that is presented in *Symbol Technologies v. Delloite*.

I thank all of you for your support of our Section and its many activities and hope to see you at our Section's events, including our Spring meeting at the Sagamore in Lake George on May 21 to 23.

Vincent J. Syracuse

# The Southern District Changes Its Policy on Electronic Devices

On February 17, 2010, Chief Judge Loretta A. Preska announced a change in the Southern District's policy regarding the use of cell phones and electronic devices in its courthouses.

Effective April 1, 2010, Assistant United States Attorneys, Federal Defenders, and members of the Bar of the Court with a valid service pass issued by the District Executive's Office will be permitted to bring one personal electronic device into the courthouse for their own personal use. Individual judges will still be permitted to prohibit the use of these devices in their courtroom or chambers and written permission from the presiding judge will be required for the use of laptop computers. The new rule underscores the importance for each New York attorney to have a secure pass issued by New York State Unified Court System; attorneys with valid secure passes will qualify for the issuance of a service pass by the District Executive.

The use of cell phones, PDAs, and laptops has become an integral part of the practice of law. These electronic devices are important tools that are used for many purposes, including calendars and scheduling, client communication, Internet access, legal research, and the storage and retrieval of essential case information. The new rule is the result of the work of several judges' committees that included a hearing in July 2009 where representatives of several Bar Associations, including the Commercial and Federal Litigation Section, testified in favor of a change in the Southern District's policy. The new rule strikes an appropriate balance between the use of electronic devices and legitimate concerns about potential threats to security and decorum. It gives attorneys an opportunity to demonstrate that they can act responsibly and without interfering with the court or its personnel.

## *NYLitigator* Invites Submissions

The *NYLitigator* welcomes submissions on topics of interest to members of the Section. An article in the *NYLitigator* is a great way to get your name out in the legal community and advertise your knowledge. Our authors are respected statewide for their legal expertise in such areas as ADR, settlements, depositions, discovery, and corporate liability. MCLE credit may also be earned for legal-based writing directed to an attorney audience upon application to the CLE Board.

If you have written an article and would like to have it considered for publication in the *NYLitigator*, please send it in electronic document format (pdfs are NOT acceptable), along with biographical information to its Editor:

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Authors' Guidelines are available under the "Article Submission" tab on the Section's Web site: [www.nysba.org/NYLitigator](http://www.nysba.org/NYLitigator).

[www.nysba.org/NYLitigator](http://www.nysba.org/NYLitigator)

# The Section Will Feature Program on the Obama Administration and Perspectives on Growth Opportunities for Attorneys of Color in the Public and Private Sectors

Building on the enthusiasm and tremendous success of the past three years, the Commercial and Federal Litigation Section will host the Fourth Annual Smooth Moves: Career Strategies for Attorneys of Color event on April 27, 2010, at 4:00 p.m. This Continuing Legal Education program, followed at 5:30 p.m. by a reception and presentation of the Honorable George Bundy Smith Pioneer Award, will be held at Lincoln Center's Stanley Kaplan Penthouse.

The Section conceived of the idea to sponsor a career development CLE program and networking reception for attorneys of color, and an award recognizing the extraordinary accomplishments of retired Court of Appeals Judge George Bundy Smith, as a way of demonstrating the Section's longstanding commitment to diversity in the legal profession and to attract attorneys of color to active membership in the Section. With the generous financial support of law firm sponsorships to help defray the cost to the Section, the event is free of charge to all who attend.

This year's Continuing Legal Education program is entitled "The Obama Administration's Call to Service—One Year Later: Perspectives on Growth Opportunities for Attorneys of Color in the Public and Private Sectors." The program's distinguished participants will include Preeta Bansal, General Counsel and Senior Policy Advi-

sor, United States Office of Management and Budget; George W. Madison, General Counsel, United States Department of the Treasury; and Ki P. Hong, Partner in the Political Law Practice Group at Skadden, Arps, Slate, Meagher & Flom LLP. Panelists will discuss the administration's judicial appointments, legislative initiatives, and the call to government service, with an emphasis on the career opportunities available to attorneys of color. The program planning committee includes Barry A. Cozier, Member of the Section's Executive Committee, Carla M. Miller, Co-Chair of the Committee on Corporate Litigation Counsel, Lesley Friedman Rosenthal, former Section Chair, and Tracee E. Davis, Chair of the Diversity Committee and Vice-Chair Elect of the Section.

Following the CLE program, the Section will present the Pioneer Award jointly to Norman Kee and Glenn Lau-Kee of Kee & Lau-Kee PLLC. The Section bestows this award for the career accomplishments, legal excellence, and commitment to community service demonstrated by its recipients. The Section will also award the Minority Law Student Fellowship to a first-year law student at the event, who will spend the summer of 2010 in the chambers of Commercial Division Justice Bernard J. Fried.

The Section encourages all members and non-members to attend and to support this important event.





# Presentation of the Stanley H. Fuld Award for Outstanding Contributions to Commercial Law and Litigation

Award Recipient: **Honorable Jonathan Lippman**, Chief Judge, New York State Court of Appeals

Award Presenter: **Honorable Judith S. Kaye**, Skadden, Arps, Slate, Meagher & Flom LLP (former Chief Judge, New York State Court of Appeals)



CFLS Section Chair Vincent J. Syracuse addresses CFLS luncheon



Former Chief Judge Judith S. Kaye presents Stanley H. Fuld Award to Chief Judge Jonathan Lippman at CFLS luncheon



Chief Judge Lippman addresses CFLS luncheon as recipient of the Stanley H. Fuld Award



NYSBA President-Elect (and former CFLS Section Chair) Steve Younger joins CFLS Section leadership to thank Former Chief Judge Kaye and Chief Judge Lippman for participating in Section CLE and luncheon. (L-R) Stephen P. Younger, Paul D. Sarkozi, Deborah Kaplan, Jonathan D. Lupkin, Judge Kaye, Chief Judge Lippman, David H. Tennant, Erica Fabrikant, Vincent J. Syracuse

# The Annual Meeting: The Judge Kaye Show and Much, Much More

The Commercial and Federal Litigation Section christened the new Annual Meeting venue (New York Hilton Hotel) by presenting top-notch CLE programming in the morning and attracting a sell-out crowd to the awards lunch that followed.

## The Judge Kaye Show

The morning CLE program was headlined by former Chief Judge Judith S. Kaye, current Chief Judge Jonathan Lippman, and Second Circuit Judge Richard C. Wesley, who raised the veil on the appellate courts amidst peals of laughter and pathos—a performance so enjoyable that DVDs of the Judge Kaye Show are in high demand. On the state side, serious topics included the heavy appellate dockets



Lights, camera...action! The Judge Kaye Show in full swing



Section Chair Vincent J. Syracuse kicks off the Section's morning CLE program

in the Appellate Division that require extraordinary productivity and naturally limit the product that comes out, the limited number of commercial cases that reach the Court of Appeals, and the continuing struggle to raise judicial salaries—with robust discussion about ways to address these chal-



Hon. Judith Kaye channels James Lipton as host of the Judge Kaye Show



The tables get turned on the inquisitor as Judge Stephen Crane poses a question



Chief Judge Lippman responds to a question from Judge Kaye



A packed room surrounds the set for the Judge Kaye Show



Former Chief Judge Kaye, Chief Judge Lippman, and Second Circuit Judge Wesley share a light moment on the Judge Kaye Show



lenges. On the federal side, Judge Wesley described the burden imposed on the federal appellate courts, especially the Second Circuit, in handling thousands of immigration appeals and the remarkable steps taken by that court to process the appeals. On the lighter side, Judge Kaye, channeling interviewer James Lipton from *Inside the Actors Studio*, asked her two “pigeons” to identify their favorite swear word and least favorite sound.



**Judge Kaye poses a tough question to her judicial colleagues**

adapt and even expand business by competing on price. Jim Hassett, a legal consultant with BizLegDev, described the unpredicted changes in the legal industry and the steps lawyers can take to respond. The discussion was equal parts sobering and thought-provoking.

The luncheon feted Chief Judge Jonathan Lippman as the recipient of the Stanley H. Fuld Award. Judge Kaye followed her extraordinary debut as host for the Judge Kaye Show

### Capturing Opportunity

The second CLE program, “The Future Ain’t What It Used to Be,” brought together a stellar panel to discuss ways in which lawyers in private practice can find opportunity in the changing economy. Prof Gary Munneke of Pace Law School and Chair of the Law Practice Management Committee moderated the discussion. The Law Practice Management Committee co-sponsored this segment of the CLE program. Panelist Teresa Wynn Roseborough, Senior Litigation Counsel for MetLife, described the tremendous pressure she is under “to do more with



**Judge Kaye enjoying her turn as talk show host**

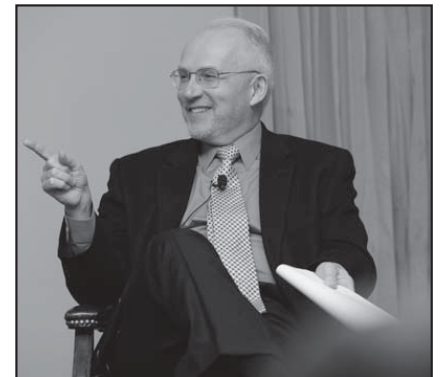
less” with in-house resources and how that translates into similar expectations for outside counsel. Chairman Harry Trueheart of Nixon Peabody LLP offered his views on the changing economy and client demands and on how law firms can adapt. Michael Rakower of Michael Rakower P.C. offered the solo/small firm perspective on how to

by presenting the Fuld Award to Chief Judge Lippman. The lunch program drew more than 70 members of the state and federal judiciary, with a total crowd approaching 400.

In short, the Commercial and Federal Litigation Section’s Annual Meeting was a big hit with the aid of marquee names and first-rate performances. The complete CLE program will be available on DVD through the State Bar and may be viewed through soon-to-be activated links on the State Bar Web site. Look for it also in the *NYLitigator*.



**Chief Judge Lippman makes a point**



**Judge Wesley makes a point**



**Chief Judge Lippman and Judge Wesley mix it up before a live studio audience**



**Program Chair David H. Tennant thanks Chief Judge Lippman and Judge Wesley for their fantastic debut on the Judge Kaye Show**

# New Rule Clarifies Rejection of Papers by State Court Clerks

By Mark Davies

In *Mendon Ponds Neighborhood Association v. Dehm*,<sup>1</sup> the Court of Appeals held that an Article 78 petition was not filed and thus subject to dismissal because petitioner had filed the petition not with the county clerk but with the chief clerk of the Supreme and County Courts for the county. In response to that decision, the legislature in 2007 enacted amendments to CPLR 105, 304, 306-a, and 2102 to clarify that summonses and petitions must be filed with the county clerk and to deem filed any paper filed in accordance with court rule or practice.<sup>2</sup> The amendments sought to “clear up the ambiguities of the present statute and not create a trap for the unwary.”<sup>3</sup> A new CPLR 2102(c), which like the other amendments became effective on January 1, 2008, provided that “[a] clerk shall not refuse to accept for filing any paper presented for that purpose except where specifically directed to do so by statute or rules promulgated by the chief administrator of the courts, or order of the court.”

On January 12, 2010, the Chief Administrative Judge promulgated an amendment to the Uniform Rules for Supreme and County Court specifically providing that, in accordance with CPLR 2102(c), a county clerk and a chief clerk of the Supreme or County Court shall refuse to accept for filing papers filed in actions and proceedings only under four circumstances or as otherwise provided by statute:

- The paper lacks an index number;
- The summons, complaint, petition, or judgment sought to be filed with the county clerk contains an “*et al.*” or otherwise does not contain a full caption;<sup>4</sup>
- The paper sought to be filed with the county clerk is filed in the wrong court;
- The paper is not signed in accordance with 22 N.Y.C.R.R. § 130-1.1-a.

The new rule mandates that the county clerk, before accepting a paper for filing, must require either the payment of any applicable statutory fees or a court order waiving payment of the fees. Furthermore, a county clerk or chief clerk must signify a refusal to accept a paper by use of a stamp on the paper indicating the date of the refusal and by providing on the paper the reason for the refusal.<sup>5</sup>

## Endnotes

1. 98 N.Y.2d 745, 751 N.Y.S.2d 819 (2002).
2. 2007 N.Y. Laws Ch. 125.
3. Memorandum in Support, New York State Assembly, 2007 N.Y. Laws Ch. 125.
4. CPLR 2101(c) requires that the title of the action or proceeding in these documents include the names of all parties.
5. 22 N.Y.C.R.R. § 202.5(d), as added by Administrative Order of the Chief Administrative Judge of the Courts, Jan. 12, 2010. The promulgation of this rule also resulted in the settlement of a 2009 lawsuit brought by a three-lawyer firm in White Plains against two executive-level clerks in the Bronx for rejecting documents “without authority.” See Daniel Wise, *New Rule Specifies When Court Clerks Can Reject Lawsuit Documents*, N.Y.L.J., Jan. 22, 2010.

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NYSBA



# CPLR Amendments: 2009 Legislative Session

## (Chapters 1-507)

CPLR	Chapter	Change	Eff. Date
105(s-1)	103	Extends sunset until June 30, 2014	7/11/09
304	416(2)	See note (1)	9/1/09
312-a(d)	222	Eliminates military serial numbers from acknowledgement of receipt	7/14/09
1101(f)	56, U(17)	Extends sunset until Sept. 1, 2011	4/7/09
2103(b)(7)	416(1)	Authorizes adoption of court rule permitting service of interlocutory papers by e-mail without recipient's consent; see also note (1)	9/1/09
408(a), (d)-(h)	507(9)	Cross-references definition of home loan in RPAPL § 1304 and adds provisions on settlement conferences in residential foreclosure actions	2/13/10 <sup>1</sup>
4111(e), (f)	494, F(4), (5)	Repeals CPLR 4111(e); reletters CPLR 4111(f) as CPLR 4111(e)	11/12/09
4213(f)	494, F(6)	Requires itemization of court's decision as to future damages	11/12/09
4545(a)-(d)	494, F(1)-(3)	Repeals CPLR 4545(a) and (b); reletters CPLR 4545(c) and (d) as CPLR 4545(a) and (b); eliminates all exclusions from collateral source deductions except life insurance and statutory reimbursements; requires collateral source deduction by court after jury verdict; permits plaintiff to prove losses and expenses regardless of possible later deduction	11/12/09
5205(l), (o)	24(1), 24(2)	Eliminates exemptions in CPLR 5205(l)-(n) where NYS or a municipality is the judgment creditor or where debt is for child support or maintenance	5/4/09
5222(k)	24(3)	Eliminates exemptions in CPLR 5222(h)-(j) where NYS or a municipality is the judgment creditor or where debt is for child support or maintenance	5/4/09
5222-a(a), (b)(1), (b)(2), (c)(1), (c)(4)	24(4), 24(5), 24(6)	Eliminates support collection units	5/4/09
5222-a(i)	24(7)	Provides that CPLR 5222-a does not apply where NYS or a municipality is the judgment creditor or where debt is for child support or maintenance	5/4/09
5230(a)	24(8)	Exempts execution notices where NYS or a municipality is the judgment creditor or where debt is for child support or maintenance	5/4/09
5232(e)	24(9)	Adds to preservation clause restraint, removal, and execution required to enforce a child support or maintenance obligation	5/4/09
5232(h)	24(10)	Eliminates exemptions in CPLR 5232(e)-(g) where NYS or a municipality is the judgment creditor or where debt is for child support or maintenance	5/4/09
5241(b)(2)(i)	215(11)	Corrects cross-references to Fam. Ct. Act and Dom. Rel. Law	10/9/09
5241(h)	215(12)	Modifies priority of deductions	10/9/09
8007	450(1)	Adds Richmond County to exclusions from prescribed publishing rates	9/16/09
8012(b)(4)	381	Adds issuance of property executions	8/5/08

Notes: (1) 2009 N.Y. Laws Ch. 416, § 2, effective Sept. 1, 2009, authorizes the Chief Administrator to promulgate rules permitting the use of fax and e-mail in Supreme Court, the New York City Civil Court, surrogate's courts, and the Court of Claims for commencement of actions and proceedings and for the filing and service of interlocutory papers. The Chief Administrator may also eliminate the requirement of parties' consent to such filing and service in certain types of cases in Supreme Court in certain counties, although this authorization expires Sept. 1, 2012.

### Endnote

1. Amendments to CPLR 3408(a) expire on Dec. 15, 2014.

# 2009-2010 Amendments to the Uniform Rules for Supreme and County Courts, Rules Governing Appeals, and Certain Other Rules of Interest to Civil Litigators

(N.Y. Orders 1-23 of 2009; N.Y. Orders 1-3 of 2010)

22 N.Y.C.R.R. §	Court	Subject (Change)
202.5(d) [2010]	Sup.	Specifies papers that county clerk or chief clerk may refuse to accept for filing
202.12(c)(3)	Sup.	Adds establishment of method and scope of electronic discovery to matters to be considered at preliminary conference
202.12(l)	Sup.	Deletes proviso that requests for CPLR 3407 preliminary conferences need not be accompanied by § 202.12(a) good faith affirmations
202.12-a [2010]	Sup.	Amends procedures relating to residential mortgage foreclosure actions
202.16-a	Sup.	Adds provisions on automatic orders in matrimonial actions
202.70(a)	Sup.	Increases monetary threshold of Commercial Division in New York County to \$150,000 and in Nassau County to \$100,000
600.2(b) [2010]	1st Dep't	Requires that special proceedings originating in 1st Dep't be noticed for 10:00 a.m. and that proof of service be filed by 4:00 p.m. of business day preceding return date
Parts 691, 700	2d Dep't	Changes cross-references from Code of Professional Responsibility to Rules of Professional Conduct
700.4	2d Dep't	Gender-neutralizes the rule on Obligations of Attorneys
Part 1200	All	Replaces Code of Professional Responsibility with Rules of Professional Conduct

Note that the court rules published on the Office of Court Administration's Web site include up-to-date amendments to those rules: <http://www.nycourts.gov/rules/trialcourts/index.shtml>.

# Notes of the Section's Executive Committee Meetings

## October 6, 2009

Guest speaker the Hon. Elizabeth Strong, United States Bankruptcy Judge for the Eastern District of New York, spoke to the Executive Committee on the roots of bankruptcy courts in the United States and offered a snapshot of the state of the bankruptcy courts and the sorts of cases that come before them.

The Executive Committee discussed a new Request for Judicial Intervention Form. The Committee on Appellate Practice spoke on the proposed amendments to the local rules for the Second Circuit, in particular changes to the rules on briefing timetables, e-filing requirements, and attorney grievance procedures. The Committee on Federal Procedure spoke on the overall purpose of the Special Committee on Pleading Standards.

## November 17, 2009

Guest speaker the Hon. Loretta A. Preska, Chief Judge for the Southern District of New York, discussed the various operating committees within the Southern District that help set policy and procedure for the Court and that help ensure its smooth functioning. She encouraged members of the Section to get involved with the advisory council of lawyers for the New York State Federal Judicial Council.



The Executive Committee adopted a report of the Committee on Immigration Litigation on Immigration Appeals to the Second Circuit. The Executive Committee also discussed a report of the Committee on Commercial Division on the Office of Court Administration's proposed new form for the Request for Judicial Intervention and authorized the Committee to convert the report into a letter and send it to the OCA. Upon the recommendation of the Committee on Appellate Practice, the Executive Committee decided to forgo preparing a report on the Proposed Amendments to the Local Rules for the Court of Appeals for the Second Circuit.

## December 8, 2009

Guest speaker the Hon. James A. Yates of the Commercial Division of the Supreme Court, New York County, discussed his practices as a Commercial Division justice.

The Executive Committee approved a report of the Committee on Commercial Division on sealing and individual judge rules in business litigation. The Executive Committee also discussed the upcoming Annual Meeting, Spring meeting, and Smooth Moves CLE program.

NEW YORK STATE BAR ASSOCIATION

*Save the Date*

## 4<sup>TH</sup> ANNUAL SMOOTH MOVES: Career Strategies for Attorneys of Color

**April 27, 2010**

**Lincoln Center's Stanley Kaplan Penthouse**

*Sponsored by the NYSBA Commercial and Federal Litigation Section*





**Section Chair**

**Vincent J. Syracuse**

Tannenbaum Helpert  
Syracuse & Hirschtritt LLP  
New York City

**Program Chair**

**Jonathan D. Lupkin**

Flemming Zulack Williamson  
Zauderer LLP  
New York City

# NYSBA

## Commercial and Federal Litigation Section

In Association with the Young Lawyers Section

### Spring Meeting

The Sagamore  
Bolton Landing, NY  
May 21 - 23, 2010



This MCLE program offers **up to [6.5] MCLE credit hours**. Breakdown of credit hours, per individual, is dependent on choice of sessions that are attended.

# SCHEDULE OF EVENTS

## Friday, May 21

- 3:00 p.m. **Registration** - Hotel Lobby
- 6:30 p.m. **Cocktail Reception** - Dollar Island Terrace
- 7:30 p.m. **Opening Banquet** - Dollar Island
- Dinner and Welcoming Remarks**  
**JONATHAN D. LUPKIN, ESQ.** Section Chair-Elect and Program Chair  
**MICHAEL E. GETNICK, ESQ.** President, New York State Bar Association  
**VINCENT J. SYRACUSE, ESQ.** Section Chair  
**TUCKER C. STANCLIFT, ESQ.** Young Lawyers Section Chair
- Dessert and Coffee**  
Screening of "The Response": A courtroom drama based upon actual transcripts of the Guantanamo Bay military tribunals. The 30-minute film was Shortlisted for the 2010 Academy Awards® - best live action short, won the 2009 ABA Silver Gavel Award as best of the year in Drama & Literature, and has screened at the Pentagon, DOJ, the French Embassy, Harvard, Columbia, Yale and West Point. [www.theresponsemovie.com](http://www.theresponsemovie.com).
- Discussion following the screening with:**
- Guest Speakers**
- |  |   |
|--|---|
| <b>SIG LIBOWITZ, ESQ.</b><br>Writer & Producer   | <b>PETER RIEGERT</b><br>Actor (Animal House, Local Hero, The Sopranos, The Good Wife)   |
| <b>PROF. MATTHEW WAXMAN</b><br>Associate Professor<br>Columbia Law School<br>Former Deputy Assistant Secretary of Defense for Detainee Affairs | <b>BRIGADIER GENERAL JAMES CULLEN</b><br>(Army, retired)<br>Partner, Anderson Kill & Olick, P.C.<br>Former Chief Judge (IMA) of the U.S. Army Court of Criminal Appeals |

## Saturday, May 22

- 8:00 a.m. **Registration** - Dollar Island Foyer
- 8:45 a.m. - 12:15 p.m. **General Session**
- 8:45 a.m. **Welcoming Remarks**  
**VINCENT J. SYRACUSE, ESQ.**  
Section Chair
- 8:55 a.m. **Program Overview**  
**JONATHAN D. LUPKIN, ESQ.**  
Section Chair-Elect and Program Chair
- General Session** - Dollar Island
- 9:00 a.m. - 12:15 p.m. ***Delaware Chancery Court and the Commercial Division of the New York State Supreme Court: A Discussion Among Leading Jurists and Practitioners about the Basics of Commercial Law and Litigation in the Two Commercial Epicenters of the United States (3.5 Professional Practice)***
- Moderator: **HON. KARLA MOSKOWITZ**  
New York State Supreme Court  
Appellate Division, First Department  
New York City

# SCHEDULE OF EVENTS

- Panelists: **CHANCELLOR WILLIAM B. CHANDLER III**  
Delaware Court of Chancery  
Georgetown, DE
- HON. CAROLYN E. DEMAREST**  
Kings County Supreme Court  
Commercial Division  
Brooklyn
- JOSEPH S. ALLERHAND, ESQ.**  
Weil, Gotshal & Manges LLP  
New York City
- HON. HENRY duPONT RIDGELY**  
Supreme Court of Delaware  
Wilmington, DE
- HON. BERNARD J. FRIED**  
New York State Supreme Court  
Commercial Division  
New York City
- 10:30 - 10:45 a.m. **Refreshment Break**
- 12:15 - 1:45 p.m. **Buffet Lunch** - Shelving Rock Terrace
- 1:45 - 6:00 p.m. **Afternoon Free for Recreation and Spa Activities**
- 6:30 p.m. **Cocktail Reception** - Mountainview Terrace
- 7:30 p.m. **Gala Dinner** - Nirvana
- New York State Bar Association Welcome**
- STEPHEN P. YOUNGER, ESQ.**  
President-Elect, New York State Bar Association  
Patterson Belknap Webb & Tyler LLP  
New York City
- Presenter: **Presentation of the Robert L. Haig Award for Distinguished Public Service**  
**HON. EDWARD R. KORMAN**  
United States District Court, Eastern District of New York
- Recipient: **HON. REENA RAGGI**  
United States Court of Appeals, Second Circuit
- 10:00 p.m. **After Dinner Drinks and Conversation**

## Sunday, May 23

- 8:00 a.m. **Registration**
- Session One - Two Topics (choose one)**
- 9:00 - 10:30 a.m. **How To Win (and Lose) an Injunction in New York State and Federal Court (1.5 Skills)**
- Moderator: **MARK C. ZAUDERER, ESQ.**  
Flemming Zulack Williamson Zauderer LLP  
New York City
- Panelists: **HON. HELEN E. FREEDMAN**  
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# SCHEDULE OF EVENTS

- 9:00 - 10:30 a.m. ***Introduction to Appearing Before The Commercial Division: Preparation Practices and Potential Pitfalls (1.5 Skills)***
- Moderator: **JANEL ALANIA, ESQ.**  
Commercial Division Law Clerk  
to Justice Bernard J. Fried  
New York City
- Panelists: **HON. JAMES E. d'AUGUSTE**  
Judge of the Civil Court  
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New York City
- PETER J. GLENNON, ESQ.**  
Nixon Peabody LLP  
Rochester
- 10:30 - 10:45 a.m. **Refreshment Break**
- Session Two - Two Topics (choose one)**
- 10:45 a.m. - 12:15 p.m. ***"Did That Actually Happen?" The Ethics Game Show (1.5 Ethics)***
- Moderator: **JEREMY R. FEINBERG, ESQ.**  
Statewide Special Counsel for Ethics  
New York City
- Panelists: **HON. DEBORAH H. KARALUNAS**  
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- DAVID H. TENNANT, ESQ.**  
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- 10:45 a.m. - 12:15 p.m. ***Fundamental Ethical and Practical Considerations in E-Discovery: Views From The Bench (1.5 Ethics)***
- Moderator: **EMILY K. STITELMAN, ESQ.**  
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New York City
- Panelists: **HON. LEONARD B. AUSTIN**  
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- SHELDON K. SMITH, ESQ.**  
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- 12:15 p.m. **Adjournment**

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The New York State Bar Association's Meetings Department has been certified by the NYS Continuing Legal Education Board as an accredited provider of continuing legal education in the State of New York. Under New York's MCLE rule, this program offers **up to 6.5 MCLE credit hours**. Breakdown of credit hours per individual is dependent on choice of sessions that are attended.

Only the Ethics and Skills portions of this program is transitional and therefore suitable for newly admitted attorneys.

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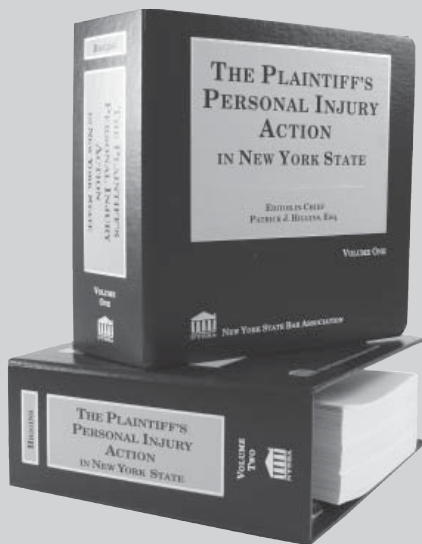
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